

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHASE MATTHEW LENTZ,

Plaintiff,

v.

DAVID BERNHARDT,

Defendant.

No. 2:21-cv-00071-DAD-DB

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND GRANTING
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT

(Doc. Nos. 22, 27, 34)

Plaintiff Chase Matthew Lentz, proceeding *pro se*, initiated this civil action on January 14, 2021. (Doc. No. 1.) This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On December 21, 2022, the assigned magistrate judge issued findings and recommendations recommending that defendant's motion for summary judgment (Doc. No. 22) be granted and that defendant's motion to strike plaintiff's surreply (Doc. No. 27) be denied as having been rendered moot. (Doc. No. 34.) The pending findings and recommendations were served on the parties and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 16.) On December 29, 2022, plaintiff filed objections to the pending findings and recommendations. (Doc. No. 35.) Defendant did not file a response thereto or objections of his own.

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1 In his objections, plaintiff argues that the magistrate judge improperly weighed the
2 evidence and assessed credibility, rather than believing his evidence and drawing all inferences
3 from that evidence in his favor. (*Id.* at 1–2.) The undersigned has reviewed the evidence before
4 the court on summary judgment and finds that the magistrate judge properly considered the
5 evidence submitted by the parties. It was not improper for the magistrate judge to note that, in
6 certain instances, plaintiff did not submit any evidence to support his conclusory statements; nor
7 was it improper for the magistrate judge to note that defendant’s factual assertions were supported
8 not only by declarations from witnesses, but also by documentary evidence that substantiated the
9 declarant’s statements.

10 Plaintiff also objects to the magistrate judge’s finding that he had failed to exhaust his
11 administrative remedies as to his failure-to-promote, disability discrimination, and poor reference
12 claims. (*Id.* at 3–5.) However, plaintiff only addresses the failure-to-promote claim specifically,
13 citing to evidence that he submitted with his opposition to the pending motion for summary
14 judgment, and that evidence was already properly considered by the magistrate judge and found
15 to be insufficient to create a genuine issue of disputed material fact as to whether plaintiff had
16 exhausted those claims with the Equal Employment Opportunity Commission (“EEOC”) as
17 required.

18 Next, plaintiff objects to the magistrate judge having considered the declarations
19 submitted by defendant in support of his motion for summary judgment, arguing that such
20 declarations constitute hearsay and are thus inadmissible evidence. (*Id.* at 5–6.). Plaintiff’s
21 objection in this regard is not well taken, however, because “[a]t the summary judgment stage,
22 [courts] do not focus on the admissibility of the evidence’s form,” courts “instead focus on the
23 admissibility of its contents.” *See Fraser v. Goodale*, 342 F.3d 1032, 1036–37 (9th Cir. 2003)
24 (citing *Block v. City of Los Angeles*, 253 F.3d 410, 418–19 (9th Cir. 2001)). To the extent
25 plaintiff objects on the basis that declarant Jennifer Mata lacked personal knowledge as to certain
26 statements made in her declarations (Doc. Nos. 22-7; 25-2), the undersigned has reviewed those
27 portions of the Mata declaration and finds plaintiff’s objections to be unsupported. For example,
28 plaintiff contends that because declarant Mata was not a signatory to his FY 2011 Performance

1 Evaluation, declarant Mata improperly attached that evaluation as an exhibit to her declaration.
2 (Doc. No. 35 at 5–6.) However, declarant Mata does not purport to have been a signatory to that
3 evaluation; rather, in her declaration, she declares that she looked into plaintiff’s allegations that
4 he had been denied a performance award for FY 2011, and she specifically looked at his FY 2011
5 Performance Evaluation, which showed his “Superior” performance rating. (Doc. No. 22-7 at
6 ¶ 109.) In support of this factual statement, declarant Mata attached plaintiff’s FY 2011
7 Performance Evaluation as an exhibit to her declaration to provide substantiating documentation.
8 (*Id.*) Plaintiff objects to this evidence solely on the basis that declarant Mata was not a signatory
9 to the evaluation—plaintiff does not object on the grounds that this exhibit is not in fact his FY
10 2011 Performance Evaluation or that this exhibit is somehow not authentic. As demonstrated in
11 this example, plaintiff’s objections regarding the inadmissibility of defendant’s evidence lack
12 merit. Thus, the undersigned rejects plaintiff’s argument that the magistrate judge considered
13 inadmissible evidence in evaluating defendant’s motion for summary judgment.

14 Finally, the undersigned is not persuaded by plaintiff’s remaining objections (Doc. No. 35
15 at 8–12), which repeat arguments that plaintiff had raised in opposition to defendant’s motion for
16 summary judgment and which were properly addressed and rejected in the pending findings and
17 recommendations.

18 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(B) and Local Rule 304, the
19 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
20 including plaintiff’s objections, the court concludes that the findings and recommendations are
21 supported by the record and proper analysis.

22 Accordingly:

- 23 1. The findings and recommendations issued on December 21, 2022 (Doc. No. 34)
24 are adopted in full;
- 25 2. Defendant’s motion for summary judgment (Doc. No. 22) is granted;
- 26 3. Defendant’s motion to strike plaintiff’s surreply (Doc. No. 27) is denied as having
27 been rendered moot by this order;

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1 4. Judgment shall be entered in favor of defendant Bernhardt; and

2 5. The Clerk of the Court is directed to close this case.

3 IT IS SO ORDERED.

4 Dated: **March 8, 2023**


UNITED STATES DISTRICT JUDGE